

Docket No.: 109910-130358

Applic. No. 09/768,658

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Kenyon, et al.

Application No.: 09/768,658

Filed: January 23, 2001

Title: **ASYNCHRONOUS
SOFTWARE UPDATE**

Examiner: Nguyen Ba, Hoang Vu A

Art Unit: 2192

Attorney Docket No. 109910-130358

Customer No. : 25,943

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

The undersigned, Aloysius T.C. AuYeung, hereby declares and states:


1. The undersigned personally wrote or supervised the writing of the patent application.
2. The invention of the above-identified application was "reduced to practice" before
September 22, 2000.
3. At least as early as **July 18, 2000**, having earlier conceived the idea of an Asynchronous Software Update Service to:

accept check in by a client computer at a first point in time to determine if
the client computer's software needs to be updated; and
provide the client computer with an update task list listing one or more
tasks to be performed by the client computer asynchronously at a
later point or later points in time to update the client computer's
software, if it is determined that the client computer's software is to
be updated.

The invention of the above-identified application was "reduced to practice" at least as
early as **July 18, 2000**, as evidenced by the summary of available new features the

undersigned received from the inventors in the "Update Service v1.5 Feature List" created by Geoffrey K. Bauman, one of the Inventors, and dated **July 18, 2000**.

4. The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Aloysius T.C. AuYeung

Date: 6/30, 2005.



Update Service v1.5 Feature List

Created: 7/18/00
Author: geoffba

Current Features in v1.1

Download and install a new application

The Updater can be installed via internet, CD ROM, floppy, etc and once installed follows the instructions of the install package it resides in to install further applications or features. After its initial install, it checks into the Update server and checks for newer versions, which will trigger an update which can download new files and replace existing files

Update and install (or patch) an existing application

Once an application is installed and registered for updates (registration occurs on the local machine in a open text config file), then the Updater will check the Update server for newer versions for that specific application. When a newer version is found, new files are downloaded and an application update process is started.

Currently 2.2+ million users, and growing

WildTangent uses the Updater as its primary channel of distribution for keeping the WebDriver technology drivers up to date. The v1.1 system has the capability of achieving near total update of an entire driver set for all 2.2+ million users in under 2 weeks with no action required on the users part.

Files replaced by an update are backed up locally for recovery purposes

All files that are replaced, altered, deleted, etc may be first copied in original form to a backup directory to aid in recovery and troubleshooting of an install or patch that does not complete successfully.

Files in use (such as library DLLs) are marked and taken care of at next startup

This is to aid in the deletion or replacement of files such as video drivers, audio drivers, code libraries, executables, or other such files that are in use at the time of install. A standard "Please reboot the system now to complete the install" dialog box will pop up only in these cases, and the user will be notified that a reboot will be required for the install to complete.

New Features in v1.5

Updater Service\Registration\Usage by Vendors

While the v1.1 Updater system was intended for and usable only by WildTangent, the new v1.5 Updater Service system will be designed and built for Vendors to utilize the system for their own applications and update packages.

Uninstall

An uninstall script will be configured and setup for each individual install and can be accessed by the standard Windows methods for uninstalling applications.

Improved Flexibility and Structure of the Install package

Multiple applications can now be packaged to install together, and in a specified order. This will allow for more discrete levels of installs and uninstalls, instead of having to install large groups of applications as a single package.

Set the update time cycle of each application individually

The frequency by which the updater client checks the server for an update can be set at install time by the application vendor, or changed by the user via the WildTangent control panel. These settings can be overridden by the server to set longer check-in intervals during peak usage, etc.

Backwards compatibility with previous WildTangent Updater versions

Even if an older version of the Updater client is detected checking in, it is handled by being instructed to update itself to the new version. After all, we must be able to update the updater, now and into the future.

Targeted updates via a code entered by user (Phasekey)

To be able to implement programs like a classic Beta release, Phasekey functionality has been included in the WildTangent Updater control panel per application. It takes the form of having a field where the user can enter a code (published via email, website, magazine, drop mail, etc) to allow them participate in a particular limited release program for that application. For example, if a set of graphics drivers were in an early release program intended to provide developers on top of the drivers to be able to develop and test their content, the developers could be informed via email that they could enter "WEBDRIVER_2_RC1" into their control panel assuming their already registered for WebDriver updates, and they would then get updated to the test drivers without also updating the entire user base. A phasekey can also be specified in an install package to ensure that the user is on the beta path.

Distributed application check-in and file download server capability

To distribute load, improve geographical download performance, and improve redundancy and reliability, application check-in and file download servers can be specified separate from the Update Service Check-In servers. As well, multiple check-in and download servers can be specified and if one is busy or unresponsive, another in the list will be tried.